

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL,  
MUNICIPAL BUILDING, MONDAY, JUNE 20, 1984, 7:30 PM

Mayor pro tem Kawalec called the meeting to order. Council Members present were:

Marilyn Myers Boulton  
David Pasquini  
Nancy Preston  
R. Dee Smith  
Bill Thorpe

Council Members Winston Broadfoot and Jonathan Howes and Mayor Nassif were absent-excused. Also present were Town Manager David Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Grainger Barrett.

Mayor pro tem Kawalec expressed thanks to Mike Jennings and Roscoe Reeve for their work over the past years: from herself, from all of the Council Members, and from the whole community.

She said Mike Jennings has exhibited extraordinary patience in working with Council over the years, and has taught members a lesson in patience. She said she has been extremely impressed with Mike's professionalism. That he has always acted in a professional way, and given Council a good example by doing so. Ms. Kawalec said she has also been impressed with Mike's extraordinary devotion to duty, that she doesn't know who else has given more hours to Chapel Hill than Mike has; and it hasn't gone unnoticed by Council. She said Council has been aware when Mike has had meetings sometimes four nights a week, and then always has been there in the day. Ms. Kawalec said Chapel Hill will be a better place for Mike's having been here, and that everyone appreciates all that Mike has done for Chapel Hill, that Council will miss him and they wish him good luck in his new assignment.

Mayor pro tem Kawalec said that Roscoe Reeve's humor has helped her get through all of the difficult meetings. He has added a light touch here and there when it was needed, and Council really appreciated that. She said the other thing he had done for her and for the Council is that he helped to explain policies. That he has gone on WCHL often, and made a real effort to get Council policies known to the public, which has been a tremendous help. She said Roscoe Reeve has also put in endless hours. He goes not only to all the Planning Board meetings, but comes to all the Council Meetings. She said, "For all of these things, Roscoe, thank you so much. I don't know what we'll do without you."

Mill Creek - Request for a Planned Development-Housing Special Use Permit

Citizens wishing to speak to Council about this item were sworn in by the Interim Deputy Town Clerk.

Town Manager Taylor requested that the following items be entered into the record of this hearing. (Please refer to Clerk's files)

- Agenda Memo #3 dated June 18, 1984, subject Mill Creek Request for a Planned Development Housing Special Use Permit
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Planning Director Mike Jennings explained the location of this project. Most of the property is zoned R-6; a very small portion is R-4. The proposal is for 160 dwelling units. There is an existing driveway which would be widened and used as the principal entrance to the project. The applicant has proposed an internal driveway system with parking under some of the buildings, and there is another access onto Bolin Creek Road. The applicant will improve Bolin Heights Road to 27 feet back-to-back with curb and gutter, with a three-lane designation at the intersection with Airport Road, to allow left and right turns.

There is an existing sidewalk on Airport Road in front of the property. It is not designated as a bikeway, but cyclists use it rather than using the street. The applicant proposes sight triangle easements at that entrance, to be graded to provide adequate sight lines. Staff recommends a sign in the driveway to warn exiting motorists of cyclists. There is bus service available on NC 86. Staff is recommending a pad and bench at the bus stop. Internal circulation is interconnected, with parking bays and private drives, and this plan provides good access for town services.

The property is separated by a grade difference from Airport Road. The applicant proposes to screen the parking from Airport Road by the grade separation and existing vegetation. Staff has added a stipulation that, if the combination of these two is not sufficient to adequately screen the project, a buffer would be added in the detailed landscape plan.

The applicant is proposing 4-story buildings, some with parking beneath in order to minimize the amount of site coverage. The density is about 16 dwelling units per acre. The applicant also proposes a mix of compact and regular parking spaces to reduce asphalt coverage. He proposes to retain the existing trees along Airport Road and in the center of the site. The intensity of the proposal is within the revised ratios adopted by Council on June 11.

Dana Staats, Landscape Architect for the developer, said that in developing the project they investigated all the aspects of the site that could possibly influence the design. He said they talked with staff, with adjacent neighbors, and with the Planning Board and Appearance Commission, to get input, and then identified the actual constraints of the site: topography, vegetation, drainage animals that live on the site, and visibility of the site.

The most constraining aspect of this particular site is its naturalness and the existing topography; it's a very steep site, heavily wooded, with a stream going through it. He said all of these things are things they want to keep.

Mr. Staats said generally the main concerns with the project are the buffers, visibility of the project, and safety. He said they will have to use pier construction, and retaining walls of substantial length to keep the existing vegetation and maintain the site as it is. He said the neighbors expressed concern about buffers, and the developer has tried to buffer more than what the ordinance requires. The buildings are set back from Airport Road in an attempt to soften their heights. He said they have taken advantage of the ordinance height allowances in order to maintain the site. Had they spread the units out, there wouldn't be much existing vegetation left on the site.

Mr. Staats said they have proposed to provide left-turn lanes at the entrances on Airport Road and Bolin Heights Road, and will grade the sight triangles down. He said the project fact sheet shows that the project meets the four findings and the ordinance requirements.

Roscoe Reeve spoke for the Planning Board. He said the Planning Board unanimously recommends approval of this project based on its review and consideration of the findings. He said the Board is concerned about the distribution of the recreation resources, the topography, and the stability of the land due to the paving and number of buildings on the project. He said the applicant seems to have been sensitive to the site along Airport Road; and the layout of the buildings make sense because of the topography.

He said the Board thinks the applicant has a good idea in minimizing the amount of parking through using parking beneath the buildings and through its other distribution as it is on the plan. He said the entranceways are of some concern: that they would not create too many open-curb spaces, or conflict with openings across the way, and these do not. He said the entranceways take advantage of an existing street.

The Board is concerned about the stability of the bank along Airport Road during construction, and has recommended some strengthening of the bank. The Board has requested that any proposal to light the tennis courts be reviewed by the Town. In this case the lights could have an effect on drivers on Airport Road. The Board believes the applicant has proposed more than the minimum amount of buffer.

Town Manager Taylor said his preliminary recommendation is that Council approve the Special Use Permit subject to the proposed stipulations.

Council Member Boulton asked if the 4-story buildings could be seen from Airport Road. Council Member Preston asked if the buildings over the parking lots will be 5 stories.

Dana Staats said these buildings would be a parking story plus 4 stories. Council Member Boulton asked what the height of those buildings would be. Mr. Staats said 50 feet.

Roscoe Reeve said that from the northbound lane of Airport Road, no buildings could be seen from a car; and from the southbound lane, the peaks of roofs will be seen. He said if the developer leaves the vegetation, which is what the Planning Board is concerned about, that will provide the screening; which is also why they would not want the earth wall to collapse, or be graded down.

Council Member Preston asked how the bank would be stabilized. Mr. Staats said the actual engineering work has not been completed on this.

Council Member Pasquini said he would like a sight-line drawing from NC 86. He said that he would need more description of the buffer along Airport Road, and that he needs more reassurance on exactly what vegetation would be left on the site; or if removed, what the developer would replace the vegetation with. Mr. Staats pointed out the vegetation proposals on the drawing. Mr. Pasquini asked for a sight-line drawing. Mr. Jennings said the Town needed more description of what the buffers along Airport Road will be.

Council Member Preston asked how the developer proposes to prevent erosion and siltation into the creek. Mr. Staats said they will be required to use soil erosion and sedimentation control measures. Ms. Preston asked if these measures will be taken throughout the construction period. Mr. Staats said yes, that different measures may be taken at different times according to the phasing of the project. Ms. Preston asked what the phasing will be. Mr. Staats said he does not know. Ms. Preston said that it seems the area of the tennis courts is low, and would be visible from Airport Road. Mr. Staats said the developer will build up the site of the tennis courts approximately six feet higher than the land is now; and would plant more vegetation to screen if needed.

Council Member Smith asked when a decision will be made on how to use the R-4 portion of the site. Mr. Staats said the Homeowners' Association will decide. Mr. Jennings said that no buildings can be constructed on the R-4 portion of the project; and that the developer does not need the R-4 portion to meet requirements. Mr. Smith said he is concerned about allowing 150 units and only approving a bus pad rather than a bus shelter. Mr. Jennings said the residents would be waiting for the in-going bus on the opposite side of the road; that this pad is for the out-of-town direction of the bus, which will have fewer riders at that point.

Council Member Smith asked what is the height of the trees. Mr. Staats said there are trees from 15 feet to 70 feet tall, and that the trees along Airport Road average 20 to 30 feet in height. Mr. Smith asked if the buildings will be seen by southbound travellers. Mr. Staats said he doesn't think much of the building will be seen. Mr. Smith asked how much buffer will be between the single-family homes on Hillsborough Street and this project. Mr. Staats said the buffer is from 20 to 80 feet

in width.

Council Member Smith said he hopes the Town will always be concerned with high-density development close to single-family residences, and that buffer requirements are consistent. He said Council doesn't know what will be developed in the R-4 portion, but he wants to insure that whatever is developed in that portion of the site includes an adequate buffer from the single-family homes.

Council Member Preston referred to page 3 of the memo which gives low and high-density population percentages for this sub-community, which percentage is higher than the recommended 30% for high density. She asked if the figures include this project. Mike Jennings said the figures are for existing population. Ms. Preston asked if there are proposals for low-density projects in this area that will bring the density more into balance when the figures are totalled. Mr. Jennings said there is more land that can be developed in this area, but no proposals have been received at this time.

Council Member Pasquini asked the developer why he decided to use 4-story buildings instead of 2-story. Mr. Staats said they are proposing 16 units per acre instead of the allowable 20 units per acre. Mr. Pasquini pointed out that they are still building as many square feet as allowed. Mr. Staats said that with fewer units there will be less traffic from fewer people on the site. Mr. Staats said that two-story buildings would cause removal of vegetation. Mr. Pasquini asked if the four-story buildings are on the highest point of the property. Mr. Staats said they are not. Mr. Pasquini asked if the four-story buildings could be placed on the lowest part of the property. Mr. Staats said placing the buildings there would significantly disturb the natural slopes of the site, and would require removal of existing vegetation. Mr. Pasquini said he agrees that moving the buildings to a lower elevation would detrimentally alter the site if the same density is maintained; however, it would improve the appearance of the site from the standpoint of the passerby.

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY FOR A REPORT BACK TO COUNCIL ON JULY 9.

THE MOTION PASSED UNANIMOUSLY. (6 to 0)

Allenton Offices - Request for a Planned Development-Office/Institutional Special Use Permit

Citizens wishing to speak to Council about this item were sworn in by the Interim Deputy Town Clerk.

Town Manager Taylor requested that the following documents be entered into the record of this hearing. (Please refer to the Clerk's files)

- Agenda Memo #4 dated June 18, 1984, subject: Allenton Offices-Request for a Planned Development Office/Institutional Special Use Permit
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Mike Jennings described the location of the project. He said the property to the east is zoned Office/Institutional also, and that the nearby Hillhaven project is built under a Special Use Permit. He said that because that property is an Office/Institutional use, the requested project is a valid request even though it is less than 5 acres, because it is appropriately related to the adjacent use. He said there are safeguards built into the site plan to allow good transition between the projects.

He said because the Allenton request is adjacent to Hillhaven, it can qualify under Section 8.8.3 by itself; but the Howell property is not adjacent to Hillhaven. Therefore, should the Council not approve the Allenton project, the Council would not be able to consider the Howell request.

Mr. Jennings said this request is for an 11,200-square-foot office building on property of 36,490 square feet, zoned R-5. The access is off Couch Road which is being improved to a 27-foot cross-section and a 50-foot right-of-way. The applicants for the Allenton and Howell projects have dedicated right-of-way to bring this road up to the required 50-foot right-of-way. He said the major point to consider is the screening from Hillhaven. He said there is a 4 to 6-foot high retaining wall proposed, and the applicant is proposing to save three large trees. He said the Land Use Plan designates this area as high-density residential. In 1969 a study was done along this corridor, at that time there was a recommendation that a residential core be maintained here to keep it from being all commercial or office. He said this was followed through in the 1981 rezoning of the Town causing this area to be zoned R-5. He said Sunstone Apartments is being built behind these properties with 260 dwelling units, and Winchester Court with 24 and Franklin Woods with 100 have been approved, and are under construction now in the area. Staff feels these help to provide that residential core, and that this particular project request would contribute little to the residential core in that area. Staff feels both proposals can be considered favorably, in light of the Land Use Plan designation of high-density residential.

Mr. Joe Hakan said this particular site is visually important from Franklin Street. He said only two major trees are being removed, and the developer is trying to assure that vegetation remains. He said a major entrance will be at the lower level of the building, that the only thing seen from Franklin Street will be the profile of the building.

Mr. Roscoe Reeve reported for the Planning Board. The Planning Board unanimously recommends approval of this project. The Board finds nothing controversial about the application, and feels the use is not negative. The major concern of the Planning Board is to orient the traffic to Couch Lane rather than to Franklin Street.

Town Manager Taylor said his preliminary recommendation is that Council approve the Special Use Permit subject to the stipulations recommended.

Mr. Bill Olsen said he is concerned about the buffer between the project and adjacent property. Mr. Jennings said the ordinance does not require buffer between similar uses, which is the case of this project.

Council Member Thorpe said he is pleased that office buildings are proposed for this area. He said he is also pleased that the developer is ready to begin construction. He said he hopes other developers will be ready to build when they make their requests to the Town.

Council Member Preston said she is pleased that the percentage of impervious surface is included in the staff report. She said she is not pleased that the percentage for this project is 60% rather than the 30% that she would like to see. Ms. Preston asked if the Engineer can provide information on pervious paving materials, so Council can know if that would be an alternative way to overcome the undesirable effect of pavement. She said the developers of Hillhaven took care to save big trees on that property, but some have now been taken down. She pointed out to the developer the guidelines in the Design Manual for saving trees, and requested that the developer follow those recommendations, especially about not cutting into the drip-line of the trees, so the trees will live. Ms. Preston asked how high the retaining wall will be. Mr. Hakan said the tallest part will be about four feet.

Council Member Smith referred to the Statement of Justification which states that no left-turns will be allowed out of the project onto Franklin Street. He said he is concerned that drivers who want to come to the center of Town will have to find some place to turn around if they are not allowed to turn left at the exit. He asked how the Town can expect emergency vehicles to follow that direction. Mayor pro tem Kawalec said this is a mis-statement in the Statement of Justification, that the

applicant has no authority to prohibit left-turns, and the Town does not intend to prohibit left-turns. Mr. Bob Page said that this was his misunderstanding.

Town Manager Taylor said he would address this issue in the report back to Council.

Council Member Smith said he would like the staff to pay close attention to developments as to their impact on traffic entering Franklin Street from the side streets in this area.

Council Member Boulton asked what is the intent of the percentage of impervious material figure in the Manager's memorandum, since the Town doesn't have a standard for the non-water-quality critical area. Town Manager Taylor said that Council Member Preston specifically requested that this information be included for each project; that staff is making no comment about whether the percentage of coverage in each case is good or bad, but is simply providing the information for Council. Ms. Boulton said she would like for the information to have some meaning, and if it will appear she would like to know what the figure means. Mr. Reeve said the most important thing is what effect the surface will have on water flow or absorption, rather than whether the condition is good or bad compared to a standard. Mayor pro tem Kawalec said this is a policy issue and the Council needs guidance from the Manager on what a defensible policy would be.

Council Member Pasquini asked how many parking spaces the project must provide. Mr. Jennings said 32 are required, but the developer is asking for 47. Mr. Pasquini asked why they are asking for 15 more than required, which would seem to increase the impervious surface. Mr. Joe Hakan said the use of this building will, in his opinion, require more parking spaces than the minimum required. Mr. Pasquini asked if the Town has a formula for figuring the optimum number of parking spaces necessary for a project. Mr. Jennings said there is a formula for minimum spaces, but not for maximum. Mr. Pasquini asked if Mr. Jennings has any idea what would be an optimum level. Mr. Jennings said no, but the developer will not spend the money on developing spaces not needed. Mr. Pasquini said he sees a lot of parking spaces that are not used, and this would be one way to address the problem of impervious coverage of land.

Mr. Allen Aldridge, President of Allenton Realty & Insurance Company, said that the proposed use of this building would be one where clients would come and go, therefore off-site parking would not be feasible for these clients. He said they feel that the 47 parking spaces will allow adequate parking in their lot so that clients will not have to park on Couch Lane, or in other lots or drives.

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER THORPE, THAT THIS MATTER BE REFERRED TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Howell Offices - Request for a Planned Development-Office/Institutional Special Use Permit

Citizens wishing to speak to Council about this item were sworn in by the Interim Deputy Town Clerk.

Town Manager Taylor requested that the following documents be entered into the record of this hearing. (Please refer to the Clerk's files)

- Agenda Memo #5 dated June 18, 1984, subject: 1526 E. Franklin Street-Request for a Planned Development Office/Institutional Special Use Permit
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Mike Jennings described the location of the project. He said the applicant proposes an entry off Franklin Street as an entrance only; the staff recommends this be deleted from the project. Although Franklin Street has a 5-lane cross-section which is designed to take care of a lot of turning movement, any time turning can be avoided on a major thoroughfare the staff will recommend that. He said the applicant does have another means of access: off Couch Lane. He said the proposed access off Franklin Street would be off-set from the access across Franklin Street into Franklin Woods. The project is subject to the requirements of Section 8.8.3 because it is less than 5 acres, and approval of this project does depend on the approval of the Allenton Offices project. He said this property could contribute 22 dwelling units, but staff does not feel that is a significant contribution to the residential core.

Mr. Robert Page made the presentation for the applicant. He said that this project is the companion application to the Allenton project, as has been described by Mr. Jennings. He said that they have taken issue with the Planning Staff over the entry from Franklin Street; because they feel Couch Lane could be a problem if cars stacked up waiting to get out. He said staff feels people will try to exit through this drive, but he feels that will be no problem. Mr. Page said the use of the buildings on both projects will be usually from 9 am to 5 pm mostly on weekdays. He said this downgrades the use somewhat because people and traffic would not be generated all the time. He said he would like to see Finding #5 considered relative to this project. Mayor pro tem Kawalec said the Council has acted on Finding #5 and decided not to use it.

Mr. Roscoe Reeve reported from the Planning Board. The Planning Board unanimously recommends approval for this project. The Board agrees with staff on the orientation of traffic toward Couch Lane in order to eliminate the cut on the major thoroughfare of Franklin Street.

Town Manager Taylor said his preliminary recommendation is that Council approve the Special Use Permit subject to proposed stipulations.

Council Member Pasquini asked to have a ruling, brought back to Council later, as to whether or not Council can stipulate that the developer must plant trees to replace any that are lost within a year of completion of the project.

Council Member Smith asked what is meant by the words "appropriately related" to the existing planned development. Mr. Jennings said both these projects are classified as office/institutional uses, therefore they are considered appropriately related to each other.

Council Member Preston pointed out that the impervious surface on this project is 58%. She said that she would like to encourage the developer to use pervious paving material if it is available. Ms. Preston said she feels these two projects are a relief from the residential development in that area, and that the projects are very attractive. She requested that as many trees as possible be saved, and she referred the developer to the Design Manual for recommendations on how to save trees during construction.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO REFER THIS MATTER TO THE MANAGER AND ATTORNEY, FOR REPORT BACK TO COUNCIL ON JULY 9.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER BOULTON, THAT ITEMS 7 AND 8 ON THE AGENDA BE MOVED TO THE END OF THE AGENDA.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Council Member Smith requested that the developer of the project on Airport Road fly a balloon on the site to show the building height. Town Manager Taylor said that he will request the developer to do this, and

will advise Council of the date and time.

Development Ordinance Text Amendments - Planning Board Composition

Planning Director Mike Jennings said that in anticipation of extending Chapel Hill's extraterritorial jurisdiction into Durham County, the Planning Board composition was changed to allow one member to be appointed from the Durham County area. On February 21 the Durham County Commissioners denied the Town's request for extraterritorial jurisdiction in Durham County; therefore, the Council is considering reconstituting the Board as it was: with 7 Chapel Hill residents and 3 residents of the Town's Orange County extraterritorial jurisdiction.

Attorney Grainger Barrett said under the Statutes this change can be made locally, as a policy choice for Council.

Mr. Roscoe Reeve reported from the Planning Board. The Planning Board supports the retention of the ratio of 7 to 3; members believe in the contributions of that ratio, and the opportunity for non-town-limit citizens to participate. He said the Board believes these people should participate and should be represented.

Town Manager Taylor said his preliminary recommendation is that Council adopt the proposed ordinance to reconstitute the Planning Board's 7-3 ratio.

Mr. Chuck Rupkalvis urged the Council to adopt the ordinance to reconstitute the Planning Board ratio to 7-3. He said this would give non-town residents the opportunity to participate in the decision-making process.

Ms. Alice Gordon, Chair of the Orange County Planning Board, presented Council with a resolution adopted by the Orange County Board supporting reconstitution of the Chapel Hill Planning Board to 7 members from Chapel Hill and 3 members from Orange County.

Mayor pro tem Kawalec said the Council is still waiting for the information they requested on April 9 which includes a report and options.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO REFER THIS ITEM TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Annexation Petition for Phase One of Southbridge Subdivision

Planning Director Mike Jennings said this is a petition to annex 37 acres of land being developed under Town ordinance requirements, which is on public water and sewer, and provides other services without being a burden on the Town.

Mr. John Northen, representing the owner and developer of the project, said Council is being asked to annex only the 13-acre middle portion of the 37-acre plat of land. He said there is some open space which will be deeded to the Town if the Town chooses to accept it. That the developer/owner will submit a request for annexation of Phase II at a later date, and Phase III after that. He said they requested that annexation be effective September 1, but staff is requesting an August 31 effective date. The developer/owner has no objection to this date.

Town Manager Taylor said his preliminary recommendation to Council is that Council annex this area.

There were no comments from citizens.

Council Member Thorpe said he is pleased the developer is requesting annexation at this point, before there are residents/owners on the property.

Council Member Pasquini said it would seem more reasonable to annex all the property at one time. Attorney Barrett said there are standards the



Town would have to apply to the property if it proceeded with involuntary annexation, and the land would not meet the standards. He said no standards have to be applied if annexation is voluntary.

Council Member Smith asked if there are plans for the dedicated open space. Town Manager Taylor said there has been some discussion about the space, but there are no plans at this time.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER THORPE, TO REFER THIS TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Mayor pro tem Kawalec announced that some of these items may come back to Council on July 2, so interested citizens should call the Manager's office to find out for sure.

Public Hearing on Closing Weaver Street Right-Of-Way

Town Engineer George Small explained that this hearing is to receive comments on whether or not to close the Weaver Street right-of-way in the Timberlyne area. He described the right-of-way to Council on a map.

Mr. Robert Page, representing Timberlyne Shopping Center owners, said that now that Banks Drive is opened, the owners are requesting that this right-of-way be closed in accordance with the stipulations of the Special Use Permit, and their approved subdivision plan. He said that was stipulated at the time because Council did not want two openings so close together on Weaver Dairy Road.

Mr. Page said the site was graded according to the Engineering plan.

Town Manager Taylor said his preliminary recommendation is that the street be closed with the reservation of a sewer easement.

Mr. Walter Mallett said he agrees the street should be closed. He said he and an adjacent property owner bought property at the end of the Weaver Street right-of-way, and thought the right-of-way would provide them with an extra 30 feet of access to the property. He said when the shopping center was graded, Weaver Street was reduced by 10 or 12 feet from the original right-of-way. He said his property is a 45-degree angle where construction encroached onto his property. He said they are trying to settle this matter now, and until it is settled, they are requesting Council not to withdraw the dedication.

Attorney Barrett asked if Mr. Mallett's objection is: that the half of the right-of-way he would get has been graded such that it is not possible to use it for ingress and egress because it is too steep. Mr. Mallett said that is the objection he has.

Council Member Boulton asked if there is a time frame for settlement. Mr. Mallett said as soon as possible.

Mr. Chuck Beemer said he is the other owner of the property Mr. Mallett talked about. He said he was conscious that Weaver Street would be withdrawn from dedication. He said Weaver Street was relatively level until Timberlyne Shopping Center construction began. He said now it is not usable as ingress/egress. Mr. Beemer said he wants the dedication withdrawn, but not at this time. He said his half of the right-of-way has been graded at a 45-degree angle and is worthless, while the Shopping Center's portion is flat and usable. He again requested that this matter be delayed.

Council Member Boulton asked if this matter must be acted on soon. Town Manager Taylor said he would not object to a delay, and will bring the matter back at Council's August 27 meeting.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PASQUINI, THAT THIS MATTER BE REFERRED BACK TO THE MANAGER AND ATTORNEY FOR REPORT BACK ON AUGUST 27.

Council Member Smith said a number of citizens have come to Council to complain about encroachment by construction equipment. He requested that the Manager take steps to assure that this does not happen.

Council Member Boulton asked Mr. Page how many owners there are of the shopping center. Mr. Page said 4. Council Member Boulton asked if the Town was involved with the grading. Mr. Charles Maretti said grading plans were submitted to the Town for approval, and plans for the shopping center were submitted to the Town, which plans showed grading plans.

Attorney Barrett said the Town did not anticipate the extent of grading that occurred on Weaver Street.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

#### Closing of Right-of-Way South of Scarlette Drive

Town Engineer George Small described the area of the proposed right-of-way closing. He said this right-of-way is not needed as access to any property.

Ms. Juanita Sturdivant, the petitioner, said she disagrees with the Manager's recommendation. She said the Colony Lake property already has two rights-of-way to the north, and one is on Legion Road, not far from the right-of-way she wants closed. She said she feels that the right-of-way for Colony Lake should come from the southern portion of the property, where the bulk of the property is. She said there is some night parking on the right-of-way, and it is only 25-feet wide. That if the right-of-way were improved to street standard of 50-feet wide, the additional 25 feet would be taken from her property.

Town Manager Taylor said his preliminary recommendation is that the Council approve the right-of-way closing, contingent upon the recording of the dedication of right-of-way required by the stipulations on the Colony Lake property.

Mr. Henry Whitfield said he opposes the closing of the right-of-way until a survey issue is resolved. He said the Town has surveyed his neighborhood, and has seemingly moved all the property lines into neighbors' yards in a southerly direction.

Council Member Smith asked what surveyors are using to determine property lines. Town Manager Taylor said Town surveyors have only located the street right-of-way, but are not surveying for property lines.

Council Member Preston asked the Manager what is the timing required for his recommendation. Assistant Manager Loewenthal said Colony Lake developers would need to make the dedication before the Zoning Compliance Permit for the first phase is issued. It could be a year or two away.

Council Member Smith asked if the developers could build the Colony Lake project without dedicating this right-of-way. Town Manager Taylor said this is a protection measure, to ensure proper access to future development of this area. Attorney Barrett said the parcel could be split and sold as two separate pieces, in which case this right-of-way might be needed.

Council Member Smith asked if the Town could place some type of restriction across the right-of-way to keep people from using it since it is not an access way now. Attorney Barrett said no because the Town has not accepted the dedication. Council Member Smith asked if it belongs to the Sturdivants now. Attorney Barrett said it is burdened by an easement for potential public access purposes until it is withdrawn by some legal method. Council Member Smith asked what the Sturdivants can do to keep people from parking in the right-of-way. Attorney Barrett said the Sturdivants could put up a barrier.

Council Member Boulton asked Mrs. Sturdivant if her property was in one parcel or two when she purchased it. Mrs. Sturdivant said it was in one parcel.

Council Member Boulton asked what qualifies an area to receive CD funds. Assistant Town Manager Loewenthal said the beneficiaries of the project must be 51% or more low- or moderate-income; the beneficiaries are defined not as the owners, but as the people who live in the area--for example tenants.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO REFER THIS MATTER TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Development Ordinance Text Amendments - Definitions

Planning Director Mike Jennings said this recommendation is for changes to definitions in the Development Ordinance.

Town Manager Taylor said his preliminary recommendation is that the Council adopt the ordinance to amend the Development Ordinance text.

Mr. Roscoe Reeve said the Planning Board supports the staff recommendation.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON, THAT THIS ITEM BE REFERRED TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 to 0)

Development Ordinance Text Amendment - Information Requirements for Development Applications

Mr. Roscoe Reeve said the Planning Board recommends that Council not adopt this ordinance. He said Board members feel requests should not be favored or denied based on who asks; but as to the appropriateness and meeting-of-requirements of the project. He said they feel someone will raise the question sometime in the future of whether the Town approved or disapproved a project because of the principal's name attached to that application.

Council Member Boulton said anyone who wants to know this information could get it from the Planning Department.

Council Member Thorpe said he agrees with the concerns of the Planning Board. Town Manager Taylor said that Council asked for this information, and in order for staff to require the information from applicants, they must have the authority from Council.

Town Manager Taylor said his preliminary recommendation is that Council adopt the ordinance amending the Development Ordinance text.

Council Member Smith said he has had experiences that have convinced him that sometimes it is good to know who is handling projects.

Council Member Thorpe said Council Members could ask the questions if they want the information.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL SMITH, THAT THIS MATTER BE REFERRED TO THE MANAGER AND ATTORNEY FOR FINAL RECOMMENDATION.

THE MOTION CARRIED 5 TO 1, WITH COUNCIL MEMBER PASQUINI OPPOSING.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER BOULTON, TO ADJOURN.

THE MOTION CARRIED UNANIMOUSLY AT 10:30 PM. (6 to 0)

